M.R.O. 1—77,006—3-6-37.

(1) Number of pages ______

(2) Date of repair ______

(3) Initials of the Referencer ______

MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 611 Press ~~Mis.~~

32—33

Dated 2—3— 1871.

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Works Department,
2nd March 1871.

No. 32. Read the following letter from the Government Pleader, to the Secretary to Government, Public Works Department, dated Madras, 1st March 1871, No. 44 :—

I HAVE the honour to acknowledge receipt of the Proceedings of Government, Public Works Department, of this date, referring for my opinion the question of the necessity for Colonel Wilkieson's complying with a summons from the Sessions Court of Tinnevelly to appear as a witness in the case of Ragavacharry, the Contractor.

2. The law clearly leaves no course open to Colonel Wilkieson but to appear in obedience to the summons. Neglect or refusal so to do renders a witness liable to be compelled by warrant to appear. The Sessions Judge in this instance issued the summons, as I am informed, because the committing Magistrate had either refused or omitted so to do. Now the Criminal Procedure Code gives the Magistrate no option but to summon any witness whose attendance may be required by the accused, the only qualification to this being that if he thinks the witness is named for purposes of vexation or delay he may require a sum to be deposited to meet expenses, which has been done in the present case. The Sessions Judge therefore in issuing this summons was only doing that which the Magistrate was clearly bound to have done.

3. With regard to the second point on which my opinion is requested, there is no provision of the Criminal Law for examining witnesses by Commission. The law requires in criminal cases that the evidence should be given in the presence of the accused.

4. Apart from the legal view of the question, I think it would be inexpedient for Government to put any obstacles in the way of the attendance of any witnesses required by the accused persons in this case. Such interference would savour of hardship towards the accused, and would put a strong weapon of defence into their hands.

No. 33. ORDER THEREON, 2nd March 1871, No. 611.

ESTABLISHMENT, No. 1.

ORDERED that this letter from the Government Pleader be communicated to Colonel Wilkieson with reference to his letter of the 21st February 1871, No. 4,710.

2. Colonel Wilkieson will observe that his attendance at Palamcottah in obedience to the summons which he has received is indispensable.

(True Extract.)

(Signed) CHARLES A. ORR, Colonel, R. E.,
Secretary to Government.

To Colonel C. V. Wilkieson, R.E.

Exd. S. T. Augustin.

No 44

Madras
1st March 1871

From J. W. Handley Esqre
Government Pleader
Madras

To Colonel C. A. Orr R.E.
Secretary to Government
Public Works Department

Sir

I have the honor to acknowledge receipt of the Proceedings of Government Public Works Department of this date referring for my opinion the question of the necessity for Colonel Wilkinson's complying with a summons from the Sessions Court of Tinnevelly to appear as a witness in the case of Raghava Charry the Contractor.

2 The law clearly leaves no course open to Colonel Wilkinson but to appear in obedience to the summons. Neglect or refusal so to do renders

a witness liable to be compelled by warrant to appear. The Sessions Judge in this instance issued the summons, as I am informed, because the Committing Magistrate had either refused or omitted so to do. Now the Criminal Procedure Code gives the Magistrate no option but to summon any witness whose attendance may be required by the accused, the only qualification to this being that if he thinks the witness is named for purposes of vexation or delay he may require a sum to be deposited to meet expenses, which has been done in the present case. The Sessions Judge therefore in issuing this summons was only doing that which the Magistrate was clearly bound to have done.

3 With regard to the 2nd point

on which my opinion is requested, there is no provision of the Criminal Law for examining witnesses by Commission. The law requires in Criminal cases that the evidence should be given in the presence of the accused.

4 Apart from the legal view of the question I think it would be inex=pedient for Government to put any obstacles in the way of the attendance of any witnesses required by the accused persons in this case. Such interference would savour of hardship towards the accused & would put a strong weapon of defence into their hands.

I have the honor to be
Sir
Your most obedient Servt

J M Handley
Government Pleader

P.W.T. 87/1 Kept
Pro: of Govt for March
No. 962.

From.

The Government
Pleader

Dated 1st } March/71
Recd: 2nd }
No. 44.

Stating his opinion as to the necessity of Colonel Wilkieson's complying with the summons to appear at the Sessions Court of Tinnevelly as a Witness in the case of Ragava Charry.

~~[illegible]~~ No. 811 - 2nd March/71

Ch 32

No. 64 | 64

Proceedings of the Madras Government
under date 2nd March 1871

Read the following

From the Govt Pleader. (Ltr. No. 44 d/ 1st March/71

Ordered that this letter from the Government Pleader be communicated to Colonel Wilkieson with reference to his letter of the 21st February 1871 No. 4710 -

Colonel Wilkieson will observe that his attendance at Palamcottah in obedience to the summons which he has received is indispensable.

15

To
Coll C. V. Wilkieson: R.E.

[signature]

Ex. s. desp. 2/3/71.
P-C — 7/3/71

Further Ins Pro ct 17 D/ 3rd 3-71

10 C No 962

Govt. of {1871} Madras.

PUBLIC WORKS.

To Colonel C. V. Wilkieson R.E.

Dated

Recd. End.

G. O., 2nd March 1871, No. 611.

Nos. 32 & 33

Ragavacharry, Contractor. Letter from the Govt. Pleader stating his opinion as to the necessity of Col. Wilkieson's complying with the summons to appear at the Sessions Court of Tinnevelly as a witness in the case of Ragavacharry, Contractor, and to the Sup. Engr of the 4th Dn with remarks.